



## **PLANNING COMMISSION AGENDA REPORT**

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**TO:** Chairman and Commissioners  
City of La Habra Planning Commission

**FROM:** Roy N. Ramsland Jr., Planning Manager  
By: Chris Schaefer, Senior Planner

**VIA:** Andrew Ho, Director of Community & Economic Development

**DATE:** April 24, 2017

**CASE:** Consideration of a request for Design Review 16-11, Conditional Use Permit 16-11, and Zone Variance 17-01 for a restaurant at 1199 South Beach Boulevard.

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### **SUMMARY RECOMMENDATION**

It is recommended that the Planning Commission approve Design Review 16-11, Conditional Use Permit 16-11, and Zone Variance 17-01 for a restaurant at 1199 South Beach Boulevard, subject to the findings and conditions in the attached resolutions.

### **PROJECT PROPOSAL**

#### **Description**

The Applicant, Kahuna Properties, LLC, is proposing to construct a new drive-through restaurant (Tommy's Original Burger) and is requesting a reduced front building setback at 1199 South Beach Boulevard. The subject property is located at the northwestern corner of Beach Boulevard and Imperial Highway (see Vicinity Map, attachment 1). The General Plan land use designation for this site is Community Shopping Center 2. The property is zoned C-2sH (Community Shopping Center High Density) which is consistent with the General Plan. A concrete box channel for Coyote Creek exists underneath the property running from the northeastern corner to the southwestern corner.

#### **Discussion**

The 0.47 acres parcel is irregularly shaped with street frontages along Beach Boulevard and Imperial Highway. A gasoline service station operated from 1964 to 2006 on the property. In 2004, a ground water remediation system was installed to remove petroleum products from soil and ground water that leaked from underground tanks (see Related Cases, below). This system is still operational. A separate application for Conditional Use Permit has been submitted to replace the existing system elsewhere on-site.

The Applicant is proposing a 2,378 square foot drive-through restaurant (Tommy's). The site will be improved with a 150-foot long drive-through lane with stacking for 9 vehicles, 14 parking spaces, an outdoor dining patio, landscaping, and a trash enclosure. The drive-through lane is accessed on the northwestern portion of the parcel and wraps around to the north side of the building, exiting on the southwestern side. The order speaker box will be located near the northern side of the building and will face towards the adjacent Taco Bell restaurant.

The outdoor seating will contain moveable tables and chairs and will be enclosed with a 3-foot high decorative wall that is topped with 3-foot tall clear Plexiglas along the southern and eastern sides.

The building's architectural design includes stacked stone covered wainscot and pilasters, tower elements, awnings, decorative cornice, stucco façade, tile accents, and vertical metal landscape trellises. The interior of the restaurant will consist of a 725 square foot dining room which will seat 56 patrons, a 260 square foot customer order area, a 390 square foot kitchen, a 180 square foot storage area, and two ADA-accessible restrooms (see Site Plan, Floor Plan, and Elevations, attachment 5).

The proposed hours of operation are 24 hours per day, daily. The business will utilize four to five employees per shift.

### **Analysis**

The proposed project is before the Commission because pursuant to LHMC Section 18.32.050.C.2, new development is subject to the requirements and procedures established in Chapter 18.68 "Design Review." In order for the Commission to approve a design plan, all the following findings must be made:

1. The proposed plan is consistent with the City's General Plan.
2. The proposed plan is consistent with the City's Zoning Ordinance.
3. The proposed Plan is in the best interests of the public health, safety, and welfare of the community.
4. The nature of the proposed land uses and the design is appropriate for the proposed location and is compatible to the surrounding land uses and improvements.
5. The project complies with all requirements of the California Environmental Quality Act.

The architectural design of the restaurant utilizes elements, colors, and materials that are consistent with the adjacent shopping center. The outdoor seating area will be enclosed with decorative wall topped with clear Plexiglas to make the space attractive and to buffer traffic noise from the intersection. New landscaping will be provided along

the street frontages, which also includes the parkway that ranges in depth from 10 to 20 feet, thereby providing an aesthetically pleasing project when viewed from Imperial Highway and Beach Boulevard.

Additionally, the proposed project is before the Planning Commission pursuant to LHMC Section 18.06.040.A, which requires the approval of a Conditional Use Permit by the Planning Commission to establish a restaurant. In order to grant the Conditional Use Permit, all of the following findings must be met in support of the project:

1. The granting of the Conditional Use Permit will not be detrimental to the public welfare and will not unreasonably interfere with the use, possession and enjoyment of surrounding and adjacent properties and will not impair the character of the zone in which it is to be located.
2. The subject site is physically suitable for the type of land use being proposed.
3. The use is conditionally permitted within the subject zone and complies with the intent of all applicable provisions.
4. The granting of the Conditional Use Permit is consisted with the General Plan.

Staff has reviewed the operational characteristics of the proposed restaurant. The restaurant use is compatible with the retail center it is located adjacent to in that the neighboring uses are all restaurant/retail/service based businesses such as a Von's supermarket, Starbucks Coffee, and Taco Bell.

As noted above, the store owner proposes to operate the restaurant 24 hours a day. Staff considered the impacts of the proposal and evaluated the surrounding uses. The following are adjacent businesses that stay open late at night when noise complaints tend to be reported:

Business	Address	Hours of Operation
Vons Market	2101 W. Imperial Hwy	6 am to 1 am
Taco Bell	1181 S. Beach Blvd	7 am to 1 am
Chevron	1950 W. Imperial Hwy	24 hours per day

No noise complaints have been reported to the City regarding these businesses, although only one is open between the hours of 1 am and 6 am.

Staff further evaluated the physical aspects between the restaurant site and adjacent residential uses, such as distance, elevation, and physical barriers. The closest residential properties are situated on a bluff, which are surrounded by 8-foot tall masonry walls, are bordered by a heavy planting of mature trees, and are over 540 feet away. Additionally, a retail commercial building, addressed as 2121 West Imperial Highway, is situated between the subject property and the residential properties thereby

providing a buffer to any noise from the operation of the restaurant. Therefore, noise is not expected to create any impacts to any adjacent residential properties.

Lastly, the proposed project is before the Planning Commission pursuant to LHMC Section 18.76.030, because a variance is being requested to deviate from the required 15-foot front yard setback (10-feet is proposed). The granting of Variances from the strict interpretation of the Code occurs when unnecessary hardships occur. In order to grant a Variance, all of the following findings must be met in support of the project:

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to the property or class of use in the same zone or vicinity.
2. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or vicinity in which the property is located.
3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by other property in the same zone and vicinity.
4. That the granting of such variance will not adversely affect the comprehensive general plan

Due to the existence of the underground box channel (Coyote Creek) traversing the site, no buildings can be constructed over this area. The space over the channel occupies approximately 8,800 square feet which effectively removes 42% of the usable area on-site for a building. Further reducing the size of the building to meet the front setback requirement would not meet the functional requirements for operating the business. Numerous building design and site layout options have been evaluated for this site. No design has been found that can meet the business objectives of the applicant and all the Zoning Code requirements due to the physical limitations of the site coupled with the existence of the Coyote Creek underground box channel. The property owner has complied with the development standards to the maximum extent physically possible and has actually increased the overall amount of landscaping provided when considering the landscaping of the parkway area abutting the property.

Due to the existence of the landscaped parkway area behind the sidewalk, the closest corner of the building will be approximately 13 feet from back edge of sidewalk. Additionally, no other retail properties within close proximity to this site are as negatively impacted whereby 42% of the property cannot be built upon. Therefore, the necessary findings for a Variance can be made.

The proposed plan for this site is consistent with the City's General Plan Land Use Element which allows for commercial uses, and is also consistent with the applicable development standards of the city's Zoning Code, except for front setback requirement.

It is therefore recommended that the Planning Commission approve Design Review 16-11, Conditional Use Permit 16-11, and Zone Variance 17-01 for a restaurant at 1199 South Beach Boulevard, subject to the findings and conditions in the attached resolutions (see Resolutions, attachments 1, 2, and 3).

### **Code Compliance**

	<u>Required</u>	<u>Provided</u>
Building Height	50 feet (max)	21 feet
Front Setback (Beach Blvd)	15 feet	10 feet*
Rear Setback	20 feet	95 feet
Side Setback (north)	0 feet	45 feet
Side Setback (south)	0 feet	60 feet
Floor Area Ratio (FAR)	0.8 FAR	0.11 FAR
Parking	356 spaces	358 spaces**
Landscaping	915 SF (7%)	2,305 SF (15%)

\* Reduced front setback being processed through Variance.

\*\* Reciprocal parking and access agreement for the integrated center.

### **NPDES**

The Applicant's proposal has been reviewed pursuant to the requirements of the City's National Pollutant Discharge Elimination System (NPDES) Municipal Permit, the Local Implementation Plan (LIP), and the Model Water Quality Management Plan (WQMP), Section 7.2. Since the proposal will constitute the disturbance of more than 5,000 square feet of soil, a Priority WQMP is required. A Preliminary Priority WQMP has been reviewed and approved. All work undertaken will be required to incorporate Best Management Practices (BMPs) as required by the WQMP.

### **CEQA**

The project was reviewed pursuant to the guidelines of the California Environmental Quality Act (CEQA) and determined to be Categorically Exempt pursuant to Section 15303(c), Class 3: "New Construction or Conversion of Small Structures" of the CEQA Guidelines. The project is exempt as the new construction is in an urbanized area and the building will not exceed 10,000 square feet.

### **General Plan Relevance**

The project implement Policies LU 2.2 (Places to Shop), LU 3.2 (Uses to Meet Daily Needs), LU 3.8 (Cohesive and Integrated Development), LU 4.1 (Development Compatibility), LU 4.4 (Design Review), LU 11.1 (Diversity of Uses), LU 11.6 (Enhanced Design Character), LU 11.7 (Architecture and Site Design), ED 1.1 (Consumer

Demand), ED 2.1 (Business Attraction), and E 2.7 (Energy Efficient Design) of the General Plan 2035.

### **Related Cases**

- On November 15, 1963, a building permit was issued for the construction of a service station. On May 27, 1964, a Certificate of Occupancy was issued for the service station. On January 6, 2006, a demolition permit was issued for the site.
- On September 27, 2004, the Planning Commission approved Conditional Use Permit 04-21 for a ground water remediation system for a 5 year period.
- On October 25, 2010, the Planning Commission approved Modification 10-04 to Conditional Use Permit 04-21 to extend the use of the remediation system for an additional 5 years.

### **REQUIRED FINDINGS**

Findings of Fact are required to be made before a Design Review, Conditional Use Permit, and Variance can be granted. The findings are provided in the attached resolutions along with conditions that staff has identified as being necessary to ensure that the proposed projects will have no negative effects on the public welfare and compliance with all appropriate City codes and ordinances (see Resolutions, attachments 1, 2, and 3).

### **RECOMMENDATION**

It is recommended that the Planning Commission adopt resolutions entitled:

#### **Design Review 16-15**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA APPROVING DESIGN REVIEW 16-15 FOR A RESTAURANT AT 1199 SOUTH BEACH BOULEVARD, AS PER THE APPROVED PLANS AND SUBJECT TO CONDITIONS.

#### **Conditional Use Permit 16-17**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA APPROVING CONDITIONAL USE PERMIT 16-17 FOR A RESTAURANT AT 1199 SOUTH BEACH BOULEVARD, AS PER THE APPROVED PLANS AND SUBJECT TO CONDITIONS.

#### **Zone Variance 17-01**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA APPROVING ZONE VARIANCE 17-01 FOR A REDUCTION OF THE BUILDING FRONT SETBACK ON BEACH BOULEVARD FROM

15 TO 10 FEET, FOR THE CONSTRUCTION OF A RESTAURANT AT  
1199 SOUTH BEACH BOULEVARD, MAKING THE APPROPRIATE  
FINDINGS AND SUBJECT TO CONDITIONS.

## **ATTACHMENTS**

1. [Resolution – Design Review](#)
2. [Resolution – Conditional Use Permit](#)
3. [Resolution – Zone Variance](#)
4. [Vicinity Map](#)
5. [Site Plan, Floor Plan, and Elevations](#)
6. [Executive Summary](#)
7. [Application](#)
8. [Property Owner Notice and Mailing List](#)